

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  NOS COMMUNICATIONS, INC.	DOCKET NOS. TCU-01-7 TF-01-106 WRU-01-27-591
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**PROCEDURAL ORDER AND NOTICE OF HEARING**

(Issued June 15, 2001)

On April 2, 2001, NOS Communications, Inc. (NOS) filed an application with the Utilities Board (Board) for issuance of a certificate of convenience and necessity to provide resold and facilities-based local exchange service in Iowa. The application was identified as Docket No. TCU-01-7. NOS also filed proposed tariffs that were identified as TF-01-106. On April 19, 2001, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed an objection to the issuance of a certificate. On May 29, 2001, NOS filed its response to Consumer Advocate's objection.

Also on May 29, 2001, NOS filed a request for waiver of Board rules 199 IAC 16.5(2), 18.2, and 22.3(1). The waiver request was identified as Docket No. WRU-01-27-591. On June 8, 2001, the Consumer Advocate filed a resistance to the waiver request.

In an order issued June 13, 2001, the Board docketed the application for hearing, extended the date for making a determination concerning the application to August 30, 2001, and assigned the case to an administrative law judge.

Iowa Code § 476.29 (2001) states that a certificate shall be issued by the Board, after notice and opportunity for hearing, if the Board determines that the service proposed to be rendered will promote the public convenience and necessity. The statute states that the Board shall not deny a certificate if it finds that the applicant possesses the technical, financial, and managerial ability to provide the service it proposes to render and the Board finds the service is consistent with the public interest.

The proposed tariffs filed with the application will be reviewed for compliance with Board rules at 199 IAC chapter 22.

Board rule 199 IAC 1.3 provides the criteria for determining whether a waiver request should be granted.

Pursuant to Iowa Code § 476.29 (2001), a procedural schedule will be established and this matter will be set for public hearing for the presentation of oral and documentary evidence and the cross-examination of witnesses. The conduct of this case will be governed by Iowa Code Chapters 17A and 476, and by Board rules at 199 IAC Chapters 1, 7, and 22. The waiver request will be ruled on at the same time as the application.

Because of the short amount of time available for Board decision in this case, extensions of time to the procedural schedule will not be granted.

**IT IS THEREFORE ORDERED:**

The following procedural schedule is established:

- a. On or before June 29, 2001, NOS must file prepared direct testimony relating to its application, the objection filed by the Consumer Advocate, and the waiver request.
- b. On or before July 11, 2001, the Consumer Advocate must file prepared responsive testimony.
- c. A public hearing for the presentation of evidence and the cross-examination of witnesses will be held at 10 a.m. on July 18, 2001, in the Board hearing room, 350 Maple Street, Des Moines, Iowa. Parties shall bring one copy of all prefiled testimony to the hearing for the court reporter and appear 15 minutes ahead of the hearing to mark exhibits. Persons with disabilities who will require assistive services or devices to observe this hearing or participate in it should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

**UTILITIES BOARD**

/s/ Amy L. Christensen  
Amy L. Christensen  
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper  
Acting Executive Secretary

Dated at Des Moines, Iowa, this 15<sup>th</sup> day of June, 2001.